

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB)No.221/BB/2019
U/s. 9 of the IBC, 2016
R/w Rule 6 of the I&B (AAA) Rules, 2016

In the matter of:

M/s. ABT Parcel Services
(A Division of ABT Limited)
180, Race Course Road,
Coimbatore – 641 018 - Petitioner/Operational Creditor

Versus

M/s. LCM Logistics Pvt. Ltd.
No.13-20, Ambara Arcade,
3rd Floor, Outer Ring Road,
Bhadrappa Layout,
Nagashettyhalli,
Bengaluru – 560 092 - Respondent/Corporate Debtor

Date of Order: 02nd December, 2019

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Petitioners : Shri R. Ashok Kumar
For the Respondent : Shri Govindaraddi L Kurtakoti

ORDER

Per: Rajeswara Rao Vittanala, Member (Judicial)

1. C.P.(IB)No.221/BB/2019 is filed by M/s. ABT Parcel Services ('Petitioner/Operational Creditor'), U/s. 9 of the IBC, 2016,



R/w Rule 6 of I&B (AAA) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. LCM Logistics Pvt. Ltd. ('Respondent/Corporate Debtor') on the ground that it has committed default for an amount of Rs.30,25,600/- (Rupees Thirty Lakhs Twenty Five Thousand Six Hundred only) plus interest @ 18% p.a.

2. The case was listed for admission on various dates viz., 01.07.2019, 09.07.2019, 17.07.2019, 01.08.2019, 07.08.2019, 20.08.2019, 03.09.2019, 16.09.2019, 27.09.2019, 14.10.2019, 25.10.2019, 18.11.2019, 27.11.2019 and on 02.12.2019. The case was adjourned on these dates at the requests of the parties, on one ground or the other including to settle the issue in question.
3. Heard Shri R. Ashok Kumar, learned Counsel for the Petitioner and Shri Govindaraddi L Kurtakoti, learned PCS for the Respondent. We have carefully perused the pleadings of both the parties and extant provisions of the Code and Rules made there under.
4. Shri R. Ashok Kumar, learned Counsel for the Petitioner submits that the parties are settled the issue between themselves by executing Joint Memo of Settlement dated 02.12.2019. Therefore, he urged the Adjudicating Authority to withdraw the instant Company Petition subject to compliance with the terms as mentioned in the said Joint Memo of Settlement.
5. Both the Counsel have also placed the Joint Memo of Settlement dated 02.12.2019 (which is taken on record) which reads as under:



“the Corporate Debtor has agreed to pay a sum of Rs.30,25,000 (Rupees Thirty Lakhs Twenty Five Thousand only) in full and final settlement of the claims in the instant Company Petition. The Corporate Debtor undertakes to pay the settlement amount in six installments by post dated Cheques drawn on Karnataka Bank Ltd, Mahalakshmpuram Branch, Bangalore – 560 086 in favor of ABT Parcel Service as detailed below:

<i>Sl. No</i>	<i>Cheque No.</i>	<i>Date</i>	<i>Amount in</i>
1	010752	31 st December 2019	5,25,000
2	010753	31 st January 2020	5,00,000
3	010754	29 th February 2020	5,00,000
4	010755	31 st March 2020	5,00,000
5	010757	30 th April 2020	5,00,000
6	010758	31 st May 2020	5,00,000
Total			30,25,000

The Corporate Debtor confirms and undertakes that the above cheques will be honored on their due dates. The Operational Creditor agrees to withdraw the said Petition and undertakes not to make any further claim or litigation in future in respect of the claims there under. The Operational Creditor agrees to drop the legal proceedings, if any, relating to the claims in the above Company Petition, against the Corporate Debtor.

The Operational Creditor shall have the right to move this Bench with appropriate Company Petition in the event of default of any one of the installments as mentioned above and by not honoring the cheques on the dates mentioned above.”

6. Shri Govindaraddi L Kurtakoti, learned PCS for the Respondent confirmed that they have settled the issue by executing the Joint



Memo of Settlement and they will honor the settlement of the payment as mentioned in the said Joint Memo of Settlement dated 02.12.2019 without fail.

7. Since the Company Petition is not yet admitted by the Adjudicating Authority, and the parties themselves have settled the issue, we are inclined to permit the Petitioner to withdraw the instant Company Petition with a liberty to file fresh Company Petition, in case, the Corporate Debtor failed to comply with the terms and conditions of the payment as mentioned in the said Joint Memo of Settlement dated 02.12.2019.
8. In view of the above facts and circumstances of the case, C.P.(IB)No.221/BB/2019 is hereby disposed of as withdrawn by directing the Corporate Debtor to strictly adhere to the terms and conditions as mentioned in the said Joint Memo of Settlement dated 02.12.2019 without fail, failing which the Petitioner is at liberty to file fresh Company Petition in accordance with law. No order as to costs.

(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Shruthi